

<sup>2</sup> The Board notes that, following the March 31, 2021 decision, OWCP received additional evidence and appellant submitted additional evidence on appeal. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

### **FACTUAL HISTORY**

On January 16, 2021 appellant, then a 41-year-old city carrier assistant, filed a traumatic injury claim (Form CA-1) alleging that on that date he injured his left ankle when he stepped in a “devit” while walking to his truck, experienced a snap and rolled his ankle to the left side while in the performance of duty. He stopped work on January 17, 2021.<sup>3</sup>

In a January 20, 2021 duty status report (Form CA-17), an unidentifiable healthcare provider diagnosed left ankle sprain and provided work restrictions.

In a January 28, 2021 authorization for examination and/or treatment (Form CA-16), the employing establishment authorized appellant to seek medical care.

OWCP received a February 1, 2021 physical therapy report.

In a February 12, 2021 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed to establish his claim and provided a factual questionnaire for his completion. OWCP afforded appellant 30 days to respond.

In a January 16, 2021 first aid report, William Stilwell, a nurse practitioner, noted that appellant sustained a left ankle injury when he stepped in a pothole and rolled his ankle. He conducted a physical examination and diagnosed sprain of unspecified ligament of left ankle. In a State of New York workers’ compensation report of even date, Mr. Stilwell checked a box marked “Yes” in response to whether the incident appellant described was the competent cause of the injury or illness and in response to whether appellant’s complaints were consistent with the history of the injury/illness.

A January 16, 2021 x-ray of the left ankle revealed no acute osseous abnormality, but demonstrated mild osteoarthritic changes.

In a March 10, 2021 work restrictions note, Rocco Rosano, a physician assistant, noted that appellant could return to work without restrictions on March 15, 2021.

OWCP also received a resignation/transfer form signed by appellant on March 16, 2021.

By decision dated March 31, 2021, OWCP denied appellant’s traumatic injury claim. It accepted that the January 16, 2021 employment incident occurred as alleged, but denied his claim because he had failed to submit sufficient medical evidence to establish a medical diagnosis. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

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<sup>3</sup> The Board notes that appellant submitted a separate Form CA-1 dated January 28, 2021. Appellant described the January 16, 2021 employment incident of stepping in a “devit or pothole” and twisting and spraining his left ankle as he fell.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>4</sup> has the burden of proof to establish the essential elements of his or her claim, including that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation of FECA,<sup>5</sup> that an injury was sustained in the performance of duty, as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.<sup>6</sup> These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>7</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. The first component is that the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged. The second component is whether the employment incident caused a personal injury and can be established only by medical evidence.<sup>8</sup>

The medical evidence required to establish a causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.<sup>9</sup> The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and specific employment factors identified by the employee.<sup>10</sup>

### **ANALYSIS**

The Board finds that appellant has not met his burden of proof to establish a diagnosed medical condition causally related to the accepted January 16, 2021 employment incident.

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<sup>4</sup> *Supra* note 1.

<sup>5</sup> *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>6</sup> *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>7</sup> *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>8</sup> *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>9</sup> *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>10</sup> *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

In support of his claim, appellant submitted reports from a nurse practitioner, a physical therapist, and a physician assistant. The Board has long held that certain healthcare providers such as physician assistants, nurses, nurse practitioners, physical therapists, and social workers are not considered physician[s] as defined under FECA.<sup>11</sup> Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.<sup>12</sup>

Appellant submitted a January 20, 2021 Form CA-17, which provided a diagnosis of left ankle sprain. However, the report contained an illegible signature from an unidentifiable healthcare provider. The Board has held that reports that are unsigned or bear an illegible signature lack proper identification and cannot be considered probative medical evidence as the author cannot be identified as a physician.<sup>13</sup> Thus, this report is insufficient to establish appellant's claim.

Appellant also submitted a January 16, 2021 x-ray of the left ankle. The Board has explained, however, that diagnostic studies, standing alone, lack probative value as they do not address whether the employment incident caused any of the diagnosed conditions.<sup>14</sup> Thus, this evidence is also insufficient to meet appellant's burden of proof.

As the record lacks rationalized medical evidence establishing a diagnosed medical condition causally related to the accepted January 16, 2021 employment incident, the Board finds that appellant has not met his burden of proof to establish his claim.<sup>15</sup>

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

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<sup>11</sup> Section 8101(2) of FECA provides that physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t). See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA). See also *J.D.*, Docket No. 21-0164 (issued June 15, 2021) (nurse practitioners); *A.M.*, Docket No. 20-1575 (issued May 24, 2021) (physical therapists); *A.C.*, Docket No. 20-1510 (issued April 23, 2021) (physician assistants).

<sup>12</sup> *Id.*

<sup>13</sup> *T.D.*, Docket No. 20-0835 (issued February 2, 2021); *R.C.*, Docket No. 19-0376 (issued July 15, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>14</sup> *M.B.*, Docket No. 19-1638 (issued July 17, 2020); *T.S.*, Docket No. 18-0150 (issued April 12, 2019).

<sup>15</sup> The Board notes that the employing establishment issued a Form CA-16. A completed Form CA-16 authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. See 20 C.F.R. § 10.300(c); *S.P.*, Docket No. 19-1904 (issued September 2, 2020); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).

**CONCLUSION**

The Board finds that appellant has not met his burden of proof to establish a diagnosed medical condition causally related to the accepted January 16, 2021 employment incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 31, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 14, 2021  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board